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September 15, 1993

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BY HAND

William F. Caton, Acting Secretary
Federal Communications Commission
Room 222
1919 M Street
Washington, DC 20554

Re: GEN Dkt. No. 90-314
ET Dkt. No. 92-100

Dear Mr. Caton:

This is to advise you that today Robert W. Holleyman II, President of the Business Software Alliance ("BSA") and Edwin N. Lavergne, Rodney L. Joyce and Henry Rivera, BSA's legal counsel, met with Chairman Quello, Brian Fontes, Chairman Quello's Chief of Staff, Rudy Baca, Chairman Quello's Legal Advisor, Commissioner Duggan and Byron F. Marchant, Senior Legal Advisor to Commissioner Barrett. The purpose of the meetings was to discuss issues raised in the above-referenced proceeding. A brief summary of BSA's presentation at these meetings is enclosed.

A copy of this Ex Parte notice was filed with the Commission and delivered to all of the above-named Commission personnel on September 15, 1993.

Sincerely yours,

Edwin N. Lavergne

Enclosure

ENL:cas

BUSINESS SOFTWARE ALLIANCE
SUMMARY OF POSITION REGARDING DATA-PCS
FCC GEN DOCKET NOS. 90-314 AND 92-100

The Business Software Alliance -- representing major U.S. software companies including Microsoft, Lotus, WordPerfect and Novell -- fully supports the Emergency Petition filed by Apple Computer, Inc. on September 13, 1993 in FCC Docket Nos. 90-314 and 92-100. The adoption of the recommendations set forth in Apple's Petition are vital to the continued growth of the U.S. computer software industry.

IF DATA-PCS IS TO BECOME A REALITY, THE ENTIRE 1910-1930 MHZ BAND MUST BE ALLOCATED EXCLUSIVELY FOR DATA-PCS.

1. **Data-PCS Requires A Nationwide Block Of Clear Spectrum.** Data-PCS devices are, by their very nature, designed to operate anywhere within the United States. Because such devices cannot co-exist with existing microwave operations in the 2 GHz band, computer manufacturers cannot introduce even a single Data-PCS device into the marketplace until the entire band allocated for Data-PCS has been cleared of existing microwave users. Computer manufacturers are the only entities in the PCS arena that require nationwide spectrum clearing before they can begin selling their products.

2. **The Most Easily Cleared Spectrum Is At 1910-1930 MHz.** Because the Data-PCS industry faces unique and difficult spectrum clearing requirements, the Commission should allocate to Data-PCS the spectrum within the 2 GHz band that can be most easily cleared. This spectrum is located at 1910-1930 MHz where there are approximately 450 existing microwave transmitters. Other 20 MHz blocks of spectrum within the band contain approximately three times as many microwave transmitters.

3. **Anything Less Than An Allocation of The Entire 1910-1930 MHz Band Would Jeopardize The Viability Of The Data-PCS Industry.** There is some indication that the Commission is considering allocating half of the 1910-1930 MHz band to Data-PCS and half to other unlicensed PCS services. This might appear, on its face, to be a fair and equitable compromise. However, it is actually likely to halt or significantly impede the development of Data-PCS because it will increase, by two-thirds, the number of microwave users that computer manufacturers will have to relocate from the 2 GHz band. The additional costs associated with such a massive relocation effort make the implementation of Data-PCS economically problematic.

4. **The Allocation Of Any Portion Of The 1910-1930 MHz To Other Unlicensed Services Is Not Necessary.** Other unlicensed PCS services, such as wireless PBXs, are ready for commercial deployment today because they can be introduced into the marketplace incrementally through regional band clearing or frequency coordination. Thus, the allocation of any portion of the 1910-1930 MHz band to such services is not necessary for the introduction of such services.